

Clean Air Act 112(r) Newsletter

Accident Release Prevention Requirements / Risk Management Plan Update

U.S. Environmental Protection Agency, Region 10

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In The News

EPA Issues Penalties to Facilities in Washington, Oregon, Idaho and Alaska for Violations of the Risk Management Program

(October 27, 2005). The U.S. Environmental Protection Agency (EPA) recently issued penalties to 21 facilities in Washington, Oregon, Idaho and Alaska. Most of the penalties were due to late refiling of Risk Management Plans (RMP's). One penalty was for an inadequate Risk Management Program. All of these penalties were conducted under EPA's Expedited Settlement Agreement process and ranged between \$600 and \$7,500.

"RMP's are required to be fully updated and resubmitted at least every five years. Despite at least two written reminders, many facilities did not resubmit their plans timely. EPA is not able to regularly provide reminders to RMP facilities, therefore they need to be cognizant of their anniversary dates and program requirements," said Kelly Huynh, EPA's RMP Coordinator.

The penalties were assessed under Section 112(r) of the federal Clean Air Act. Section 112(r) requires the development of Risk Management Programs and submittal of RMPs for all public and private facilities that manufacture, process, use, store, or otherwise handle greater than a threshold amount of a regulated substance(s) within the system. Some of the toxic and flammable chemicals covered by the program are Ammonia, Chlorine, Propane, Sulfur Dioxide, Formaldehyde.

The Risk Management Program requires such elements as development of an emergency response strategy, evaluation of a worst case and more probable case chemical release, operator training, review of the hazards associated with using toxic or flammable substances, operating procedures, and equipment maintenance. RMPs are basically checklists containing the elements of the program that are used by local emergency responders in protecting the public from accidental chemical releases.

There are 477 facilities in Washington, Oregon, Idaho and Alaska that need to meet the RMP and program requirements.

Some examples of covered facilities include :

- 1) Wastewater/Water Treatment Plants
- 2) Cold Storage Facilities
- 3) Refineries
- 4) Chemical distributors

The following facilities have entered into settlement agreements between September and October of this year, and have corrected their violations: Anchorage WWTP, Anchorage, AK; Peter Pan Seafood, King Cove, AK; Ekuk Plant, Anchorage, AK; D&D Service Inc., Bonners Ferry, ID; Bingham Cooperative Inc., Blackfoot, ID; Glanbia, Gooding, ID; Green Valley Fertilizer Inc., Rigby, ID; Paul Chemical & Fertilizer Inc., Rigby, ID; Agrilience LLC, Filer, ID; Plant Foods Inc., Filer, ID; Diamond Center, Hood River, OR; Pendleton Flour Mills LLC, Blackfoot, OR; Specialty Polymers Products Inc., Woodburn, OR; Kanto Corp., Portland, OR; Stemilt Miller, Wenatchee, WA; Stemilt Beebe, Chelan Falls, WA; Stemilt Old Station, Wenatchee, WA; Cowiche Growers Inc., Cowiche, WA; St. John Grange Supply, Inc., (St. John, Diamond Spear and Pine City, WA); City of Yakima WA; Ochoa Ag Unlimited Foods, Inc., Warden, WA.

Available Online

Specific RMP Guidance for Five Industries

EPA worked with industry representatives to develop supplemental guidance for industry-specific risk management programs. If an industry-specific program exists for your process(es), you should consider using it because it provides information specific to your process(es), including dispersion modeling and prevention program elements. Currently, there are 5 industry-specific RMP guidance documents available online (log on to the CEPPO website at www.epa.gov/swercepp).

- ☐ Wastewater Treatment Plants (re-issued July 2004, revised May 2000, issued 1998)
- ☐ Ammonia refrigeration (re-issued May 2004, issued May 2000)
- ☐ Chemical distributors (revised May 2000, issued January 1999)
- ☐ Warehouses (revised May 2000, issued January 1999)
- ☐ Propane storage facilities (issued January 2000)

RMP Guidance for Wastewater Treatment Plants

Provides information for wastewater treatment plants (WWTPs), including publicly owned treatment works (POTWs) and other industrial treatment systems. Provides guidance on how to comply with Part 68 with respect to chlorine, ammonia (anhydrous and aqueous), sulfur dioxide, and digester gas, the substances WWTPs usually use for treatment or produce as a result of treatment.

RMP Guidance for Ammonia Refrigeration Facilities

Intended for facilities with ammonia refrigeration systems (e.g., food processors and distributors, refrigerated warehouses). It covers only anhydrous ammonia and provides

offsite consequence analyses that are specific to the ways in which ammonia is handled in an ammonia refrigeration system.

RMP Guidance for Chemical Distributors

Contains comprehensive RMP implementation, and includes simplified methods for conducting offsite consequence analyses on regulated substances commonly handled and stored at chemical distribution facilities, as well as industry-specific information on accident prevention programs.

RMP Guidance for Warehouses

Contains comprehensive RMP implementation guidance, and includes simplified methods for conducting offsite consequence analyses on regulated substances commonly handled and stored at warehouses, as well as industry-specific information on accident prevention

RMP Guidance for Propane Storage Facilities

Intended as comprehensive RMP guidance for larger propane storage or distribution facilities who already comply with propane industry standards. This guidance assumes that propane is the ONLY regulated substance stored at the facility and is not sold as retail.

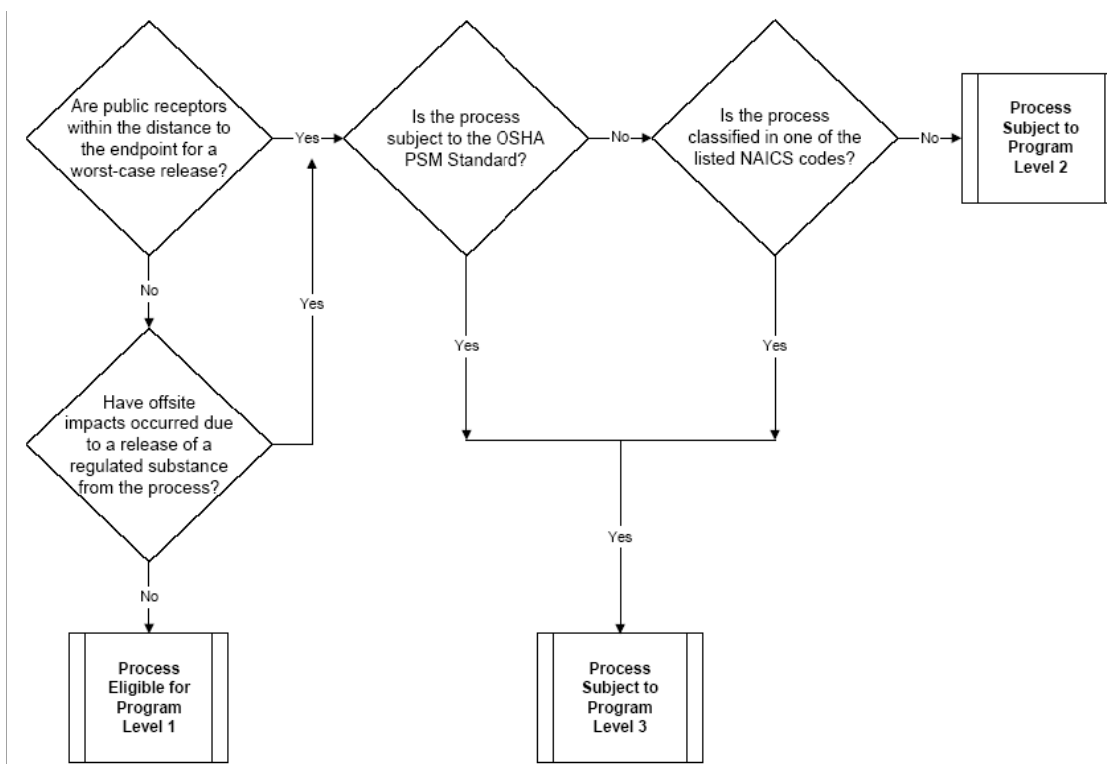
Schematic Presentations

(Note: The schematic presentations herein are not intended to fully represent the regulations. For full understanding of the detailed regulatory requirements in any given situation, the reader must consult the appropriate sections of Title 40 of the Code of Federal Regulations).

Presentation 1- HOW TO EVALUATE PROGRAM LEVELS FOR COVERED PROCESSES

EPA developed the schematic illustration below that defines the three Program levels based on processes' relative potential for public impacts and the level of effort needed to prevent accidents as established in 40 CFR 68. Remember, once it is determined that a covered process is subject to Risk Management Program, the Program level of that covered process must be defined.

Evaluating Program Levels For Covered Processes



Questions & Answers - Program Level Screening

Question: Program 3 applies to processes in certain NAICS codes as well as any process subject to the OSHA Process Safety Management (PSM) standard, unless the process is eligible for Program 1. If a process meets the requirements of Program 1, but is also in NAICS code 32211 (one of those identified for Program 3 applicability), is that process subject to the Program 1 or Program 3 requirements?

Answer: The Program 1 eligibility criteria are found at 40 CFR §68.10(b). If a process meets the criteria for Program 1, that process is subject only to the Program 1 requirements, regardless of the applicable NAICS code or whether the process is subject to OSHA's PSM. Program 3 requirements do not apply to processes which meet the Program 1 eligibility criteria (40 CFR §68.10(d)).
(CAA Q&A Database, May 2004)

Question: A covered process that is ineligible for Program 1 will be subject to Program 3 requirements if the process is in one of ten specified North American Industrial Classification System (NAICS) codes, or is subject to the OSHA Process

Safety Management (PSM) standard (40 CFR Part 68.10(d)). When determining Program 3 applicability for a particular process, should the owner or operator use the primary NAICS code that describes the stationary source's main business?

Answer: No. The owner or operator must determine the individual NAICS code for each covered process to determine whether Program 3 applies (61 FR 31670; 6/20/96). The assigned NAICS code should reflect the activity of the process, and will not necessarily be the same as the source's overall primary NAICS code.

(CAA Q&A Database, May 2004)

Question: The risk management program regulations in 40 CFR Part 68 are applicable to owners or operators of stationary sources at which more than a threshold quantity of a regulated substance is present in a process (40 CFR Section 68.10(a)). Are all covered processes subject to identical risk management program requirements?

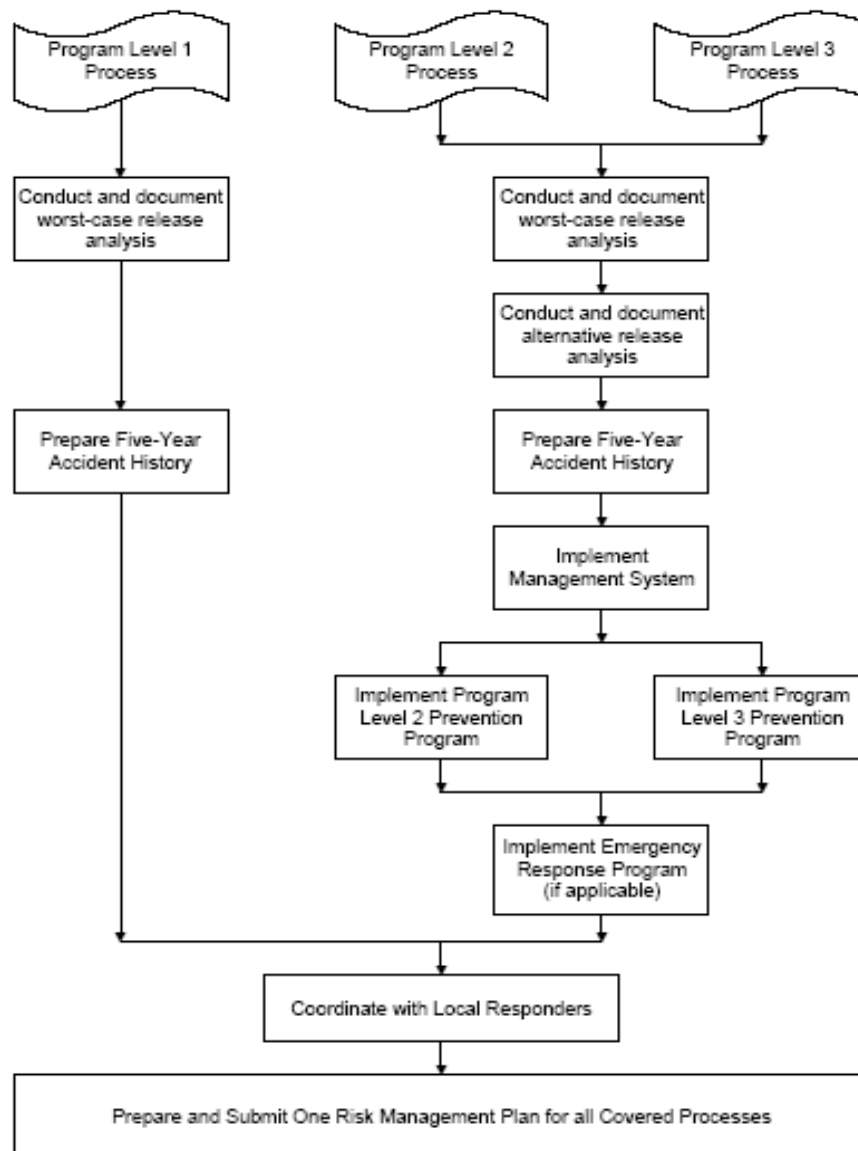
Answer: No. To ensure that individual processes are subject to requirements commensurate with their size and process type, EPA has classified them into three categories, or "programs." Program 3 processes are subject to the most comprehensive requirements and comprise relatively complex chemical processing operations in specified North American Industrial Classification System (NAICS) codes and processes already subject to the OSHA process safety management (PSM) standard. Program 2 processes are subject to a streamlined version of the requirements, and include generally less complex operations that do not involve chemical processing. Program 1 processes, subject to minimal requirements, are those from which a worst-case release would not affect the public. Further, owners or operators of stationary sources with processes in Programs 2 or 3 have flexibility under the rule to tailor their programs to best meet their own risk management needs.

(CAA Q&A Database, May 2004)

Presentation 2 - HOW TO IDENTIFY RISK MANAGEMENT PROGRAM AND RMP REQUIREMENTS

Risk management program requirements depend on the program level of the covered process. To assist in identifying what specific activities must be conducted to comply, EPA developed the illustration below that diagrams the requirements in general. It helps explain the requirements already established in 40 CFR 68.

Developing Risk Management Program



Questions & Answers - Risk Management Program and RMP

Question: When must the risk management plans (RMPs) required under 40 CFR Part 68, Subpart G, be submitted? When are updates and corrections required?

Answer: Compliance with the risk management program requirements (including submission of an RMP) is required by the date on which a regulated substance first becomes present above a threshold quantity in a process at a stationary source (the initial compliance deadline was June 21, 1999 for sources holding more than a threshold quantity of a regulated substance in a process prior to that date) (40 CFR §68.10(a)). If EPA adds a chemical to the list of regulated substances, part 68 requirements must be met with respect to that chemical within three years of the date on which the chemical is listed (40 CFR §68.10(a)(2)).

RMPs must be fully updated and resubmitted at least every five years (40 CFR §68.190(b)(1)). Under certain circumstances, RMPs must be fully updated and resubmitted before their five-year anniversary. Specifically, a facility must update and resubmit its RMP if it begins to use more than a threshold quantity of a regulated substance that it has not previously reported for the process in which it is being used. For instance, a facility may add to a process more than a threshold quantity of a regulated substance that it has not previously used in the process, or it may increase the amount of the regulated substance in a process to the point that the threshold quantity is exceeded for the first time. In either case, the facility must update and resubmit its RMP to reflect the change by the time the regulated substance exceeds the threshold quantity in the process. (See 40 CFR §68.190(b)(3) and (4).) An updated RMP is also due within six months of a change that requires a revised process hazard analysis or hazard review (40 CFR §68.190(b)(5)) or a revised offsite consequence analysis (40 CFR §68.190(b)(6)), or a change that alters the program level that applied to any covered process (40 CFR §68.190(b)(7)). RMPs updated and resubmitted for any of these reasons have their five-year anniversary reset from the date of submission of the most recent update.

Under certain circumstances, facilities must correct their RMPs before a full update is due. If a facility experiences an accidental release that meets the criteria for reporting in the five-year accident history section of the RMP, information about that accident must be added to the accident history and incident investigation sections of the RMP within six months of the date of the accident (revising other RMP sections is not required unless facility changes resulting from the accident trigger a full update). If facility emergency contact information changes, the emergency contact information in the RMP must be corrected within one month of the change (revising other RMP sections is not required). (CAA Q&A Database, May 2004)

Question: Initial RMPs must be “submitted” by a certain date, and RMPs must be updated at least every five years from the date of its submission. What constitutes “submission” for purposes of meeting and determining these deadlines – postmarking the RMP or EPA’s receipt of the RMP by the due date?

Answer: EPA generally uses the postmark date to determine both compliance with the deadline for submitting initial RMPs and the 5-year anniversary for updating RMPs. The RMP Reporting Center records both the postmark date and the date your RMP was received. If the postmark date is illegible, then the postmark date is left blank in the RMP and the date received is used for tracking compliance. (CAA Q&A Database, May 2004).
